

**APPROVED MINUTE OF MEETING OF THE LEGAL ASSISTANCE POLICY COMMITTEE
Monday 15 August, 11:30am**

**Minute**

**Present**Raymond McMenamin (Chair)
Ray Macfarlane
Marieke Dwarshuis
Stephen Humphreys
Sarah O’Neill
Gerry Bann

**In attendance**
Colin Lancaster Chief Executive
Marie-Louise Fox, Director of Strategic Development
Ian Dickson, Principal Legal Advisor
Adam Ford, Director of Operations
Linda Ross, Director of Corporate Services
Paul Haran, Director of Client Services
Andy McIntosh, Corporate Support Manager
Sarah Lynchehaun, Corporate Governance and Policy Officer
Hazel Thoms, Manager Policy and Development
Cindy Morris, Manager, Civil Finance
Kim Blance, Senior Specialist, Civil Finance

1. **Apologies for absence**

There were no apologies.

1. **Declaration of interests**

None.

1. **Draft minute of meeting of 4 July 2022**

The draft minute was approved by the Committee.

1. **Reports**

 **4.1. GALA: Determining self-employed income for means assessment**
The purpose of the paper was to provide an overview of early consideration that the GALA project is giving to potential changes regarding how income earned through self-employment was determined. The paper also provided the committee with a draft outline options appraisal and consultation planned for later that year.

It was noted that the assessment of the income of self-employed applicants was both a challenging and time-consuming process. It was noted that there are an increasing number of applications which featured this type of income.

It was advised that the project was looking at how other organisations assessed similar income, one of which was the Child Support Agency (CSA). It was noted that other organisations appeared to face similar challenges.

The committee noted that it was a very interesting paper. There was recommendation of caution around the comparisons drawn with the CSA due to the CSA’s interaction with people when they already had an obligation to pay. This was different to SLAB’s financial assessment that was a gateway to the receipt of funding. Organisations, such as banks, that assessed income in the awarding of mortgages and loans were suggested as a closer fit.

The Committee noted that the policy intention would help to drive any process changes. For example, an aim to facilitate access to justice may result in different changes being made than an aim to simply increase efficiency.

Regarding accepting estimates of self-employed income, the articulation of risk appetite was seen to be particularly important. The Committee advised that there may be risk in being an early adopter of radical changes. Furthermore, the Committee noted the risk of simply pushing issues further down the process. If an estimate was initially accepted but with confirmation information being required later, it may be better to spend the time collating the information required at the start. Members also noted the risk of applicants pursuing action based on their expectation of zero or low contributions because of inaccurate financial estimates.

The Committee concluded by noting that it was clear that the process needed to be simplified for SLAB staff and should not discourage potential applicants from seeking legal assistance on account of the process being complex. It welcomed the work done so far and Members looked forward to considering the issues again when developed further.

**4.2. GALA: Costs incurred by an assisted person which arise due to a protected characteristic**
The purpose of the paper was to provide an overview of work which had been ongoing regarding costs incurred in delivery of casework under the legal aid schemes that arise due to protected characteristics of the assisted person.

Under certain conditions, and if additional costs were incurred by an assisted person due to a protected characteristic, that assisted person may be asked to pay a higher amount for their civil legal aid case than another person with a substantively similar matter, but who did not have the same protected characteristic(s), for example if the assisted person had a contribution to pay. The GALA review group had agreed that there was a degree to which this matter could be resolved through policy.

The Committee supported the proposal that any costs incurred because of a protected characteristic could be removed from the total liability due from an assisted person. The Committee noted that its view that an assisted person with a protected characteristic should not be worse off when compared a person with the same legal complaint. However, the underlying policy needed to be clear and any impacts of creating a precedent would also need to be understood.

The Committee noted that any element of discretion brought challenges and risks of inconsistencies – it would be preferable if the legislation stated SLAB had to make specific adjustments. The complexity of assessing the actual costs of equality related assistance was also raised as a challenge.

There was a discussion about scope of policy intention and a recommendation that any further option development and appraisal include consideration about how costs incurred are dealt with for clients being assisted on a private fee basis and how this currently works for clients of PDSO/CLAO.

It was noted that this was a complex policy issue and the Committee looked forward to considering the matter further in the future.

1. **AOB**

None.

**Meeting concluded**: 12:30pm.

**Date of next meeting:** 5 September 2023.